

AMENDED IN SENATE MARCH 28, 2006

**SENATE BILL**

**No. 1294**

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**Introduced by Senator Ducheny**  
(Principal coauthor: Assembly Member Garcia)  
(Coauthor: Senator Kehoe)

February 15, 2006

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An act to amend Section 25143.1 of the Health and Safety Code, relating to hazardous waste, and declaring the urgency thereof, to take effect immediately.

LEGISLATIVE COUNSEL'S DIGEST

SB 1294, as amended, Ducheny. Geothermal wastes: exemption.

(1) Existing law regulates the management of hazardous waste and requires the Department of Toxic Substances Control to develop criteria and guidelines for the identification of hazardous waste. Existing law exempts geothermal waste resulting from drilling for geothermal resources from those management requirements. A violation of the hazardous waste control laws is a crime.

This bill would exempt from the hazardous waste control laws geothermal waste generated from the exploration, development, or production of geothermal energy that does not result from drilling for geothermal resources, if the geothermal waste meets specified management requirements and conditions, including that the waste is a hazardous waste that is exempt from the federal Resource Conservation and Recovery Act of 1976 (RCRA). Since a violation of the bill's requirements would be a crime, the bill would impose a state-mandated local program.

The bill would declare that its provisions are to take effect immediately as an urgency statute.

(2) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote:  $\frac{2}{3}$ . Appropriation: no. Fiscal committee: yes.

State-mandated local program: yes.

*The people of the State of California do enact as follows:*

1 SECTION 1. Section 25143.1 of the Health and Safety Code  
2 is amended to read:

3 25143.1. (a) Any geothermal waste resulting from drilling  
4 for geothermal resources is exempt from the requirements of this  
5 chapter because the disposal of these geothermal wastes is  
6 regulated by the California regional water quality control boards.

7 (b) (1) Wastes from the extraction, beneficiation, and  
8 processing of ores and minerals that are not subject to regulation  
9 under the federal act are exempt from the requirements of this  
10 chapter, except the requirements of Article 9.5 (commencing  
11 with Section 25208), as provided in paragraph (2).

12 (2) The wastes subject to this subdivision are subject to  
13 Article 9.5 (commencing with Section 25208) and Chapter 6.8  
14 (commencing with Section 25300) if the wastes would otherwise  
15 be classified as hazardous wastes pursuant to Section 25117 and  
16 the regulations adopted pursuant to Section 25141.

17 (3) For purposes of this subdivision, the following definitions  
18 shall apply:

19 (A) “Wastes from the extraction, beneficiation, and  
20 processing of ores and minerals” means any of the following:

21 (i) Soil, waste rock, overburden, and any other solid,  
22 semisolid, or liquid natural materials that are removed,  
23 unearthed, or otherwise displaced as a result of excavating or  
24 recovering an ore or a mineral.

25 (ii) Residuals of ores or minerals after those ores or minerals  
26 have been removed, unearthed, or otherwise displaced from their  
27 natural sites and physically or chemically treated or otherwise  
28 managed in order to separate or concentrate the commercial

1 product present in the ore or mineral, or processed to produce a  
2 final marketable product.

3 (B) “Minerals” has the same meaning as defined in Section  
4 2005 of the Public Resources Code.

5 (c) (1) Except as provided in paragraphs (3) and (4),  
6 geothermal waste, excluding filter cake, that is generated from  
7 the exploration, development, or production of geothermal  
8 energy and that does not result from drilling for geothermal  
9 resources, is exempt from the requirements of this chapter, if the  
10 geothermal waste meets either of the following requirements:

11 (A) The geothermal waste is contained within a piping system,  
12 nonearthen trench, or descaling area, or within related equipment,  
13 that is associated with the geothermal plant where the waste was  
14 generated.

15 (B) The geothermal waste is within the physical boundaries of  
16 a lined surface impoundment associated with the geothermal  
17 plant where the waste was generated.

18 (2) If geothermal waste that is exempted pursuant to ~~this~~  
19 ~~subdivision~~ *subparagraph (B) of paragraph (1)* is relocated to an  
20 elevated location inside a lined surface impoundment for  
21 dewatering, that waste shall be removed from the surface  
22 impoundment within 30 days of the relocation and while the  
23 waste still contains sufficient moisture to prevent wind  
24 dispersion, except for residuals that are impractical to remove.  
25 *The geothermal waste shall be deemed to be generated at the*  
26 *time of removal and shall be properly managed as hazardous*  
27 *waste pursuant to the requirements of this chapter.*

28 ~~(3) If geothermal waste that is exempt pursuant to this~~  
29 ~~subdivision exits or is left in place after closure or at the end of~~  
30 ~~the useful life of a piping system, nonearthen trench, descaling~~  
31 ~~area, or related equipment, or of a lined surface impoundment,~~  
32 ~~the waste is no longer exempt pursuant to this subdivision.~~

33 *(3) Any geothermal waste that is exempt pursuant to this*  
34 *subdivision ceases to be exempt from the requirements of this*  
35 *chapter, and shall be deemed to have been generated, when any*  
36 *of the following occur:*

37 (A) *It is no longer contained in one or more of the following,*  
38 *as described in subparagraph (A) or (B) of paragraph (1):*

39 (i) *A piping system.*

40 (ii) *Nonearthen trench.*

1     (iii) *Descaling area.*

2     (iv) *Related equipment.*

3     (v) *Lined surface impoundment.*

4     (B) *It is left in a geothermal piping system, a related piping*  
5 *system, a nonearthen trench, a descaling area, or another piece*  
6 *of related equipment 18 months after the date the geothermal*  
7 *power plant last produced power, unless prior to that date the*  
8 *operator submits a written notification, as described in*  
9 *paragraph (4) to the department, and the department*  
10 *acknowledges the notification in writing.*

11     (C) *It is left in a lined surface impoundment and at any time*  
12 *poses an imminent potential threat to areas outside the surface*  
13 *impoundment due to windblown fugitive dusts.*

14     (D) *It remains in a unit no longer actively regulated by the*  
15 *regional water quality control board.*

16     (E) *It is left in a lined surface impoundment 18 months after*  
17 *the date the surface impoundment has last received waste, unless*  
18 *prior to that date the operator submits a written notification as*  
19 *described in paragraph (4) to the department, and the*  
20 *department acknowledges the notification in writing.*

21     (4) *The notification that is required to be submitted by an*  
22 *operator pursuant to subparagraphs (B) and (E) of paragraph*  
23 *(3) shall contain all of the following information:*

24     (A) *The name and address of the operator, and the address*  
25 *and physical location of the plant or surface impoundment in*  
26 *which the waste will be stored.*

27     (B) *Estimated dates on which the units will resume operation.*

28     (C) *A description of how the waste will be stored and*  
29 *managed, demonstrating to the department that the waste will*  
30 *not pose a significant hazard to human health and safety or the*  
31 *environment.*

32     ~~(4)~~

33     (5) *This subdivision does not exempt hazardous waste that is*  
34 *either not directly associated with geothermal energy exploration,*  
35 *development, and production, or that is not exempted from the*  
36 *federal act pursuant to paragraph (5) of subdivision (b) of Section*  
37 *261.4 of Title 40 of the Code of Federal Regulations, or both.*  
38 *Hazardous waste that is not exempted pursuant to this*  
39 *subdivision includes, but is not limited to, used oil generated*  
40 *from vehicles or the lubrication of machinery.*

1 SEC. 2. No reimbursement is required by this act pursuant to  
2 Section 6 of Article XIII B of the California Constitution because  
3 the only costs that may be incurred by a local agency or school  
4 district will be incurred because this act creates a new crime or  
5 infraction, eliminates a crime or infraction, or changes the  
6 penalty for a crime or infraction, within the meaning of Section  
7 17556 of the Government Code, or changes the definition of a  
8 crime within the meaning of Section 6 of Article XIII B of the  
9 California Constitution.

10 SEC. 3. This act is an urgency statute necessary for the  
11 immediate preservation of the public peace, health, or safety  
12 within the meaning of Article IV of the Constitution and shall go  
13 into immediate effect. The facts constituting the necessity are:

14 In order to provide for the safe handling of geothermal wastes  
15 that result from the exploration, development, or production of  
16 geothermal energy, thereby better protecting public health and  
17 safety and the environment, it is necessary that this act take effect  
18 immediately.

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